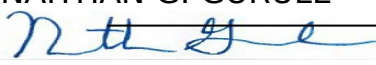
	LOS LUNAS POLICE DEPARTMENT		
	OPERATIONS	NUMBER: OPR.13.01	EFFECTIVE DATE: August 13, 2010
	SUBJECT: Domestic Violence		REVIEW DATE: October 4, 2017
	AMENDS/ SUPERSEDES:	NMSA:	
NMMLEPSC STANDARDS: OPR.13.01		APPROVED BY CHIEF OF POLICE NAITHAN G. GURULE  Signature	

I. STATEMENT OF PURPOSE

This policy establishes procedures and guidelines to be used in investigating reports of family violence. Family Violence is a serious danger and threat to society and its members. Victims of family violence are entitled to the maximum protection from harm or abuse as is permitted by law without regard to the relationship between the alleged offender and victim. The primary objectives in responding to a domestic abuse call are to de-escalate violent situations, to render assistance to the victim, to enforce the law against violators, determine the primary aggressor and to facilitate prosecution, where applicable.

II. DEFINITIONS

“Domestic Abuse” is Behavior used to control another person through fear and intimidation, often including the use of violence. This can include physical violence against the intended victim (assault, battery, aggravated burglary); physical violence against others to control intended victim (child abuse, animal abuse, assault, battery); psychological violence (stalking, harassment, criminal trespass, breaking and entering); violence against property to control intended victim (CDP, criminal trespass, breaking and entering, deprivation of property against HHM); and sexual violence (CSC, CSP).

ARRESTING

NMSA § 31-1-7 applies to household members defined as: a spouse,

former spouse, family member, including a relative, parent, present or former step-parent, present or former in-law, child or co-parent of a child, or a person with whom the victim has had a continuing personal relationship.

Although you may ARREST under that definition, you do not CHARGE with that definition for NMSA §§ 30-3-11 through 30-3-18.

CHARGING

The definition of “household member” is a spouse, former spouse, parent, present or former step-parent, present or former parent in-law, grandparent, grandparent-in-law, co-parent of a child or a person with whom a person has had a continuing personal relationship. A continuing personal relationship is defined as “a dating or intimate relationship.”

This means that siblings, cousins, and other extended family do not qualify for this statute. They are charged with simple assault, simple battery, etc. So you can still arrest these family members under NMSA § 31-1-7, but you cannot charge them under NMSA §§ 30-3-11 through 18.

Domestic Violence against a minor child of the suspect/offender will be handled as abuse/neglect of a child

PROTECTING

“Order of Protection” means an order issued by and State District Court Judge pursuant to the Family Violence Protection Act granted for the protection of victims of domestic abuse with a specific expiration date. Violation of an Order of Protection is a criminal offense.

If the victim wishes to seek a protective order under the Family Violence Protection Act, NMSA § 40-13-2, the new definition of “household member” is: spouse, former spouse, parent, present or former step-parent, present or former parent in-law, grandparent, grandparent-in-law, child, stepchild, grandchild, co-parent of a child or a person with whom a person has had a continuing personal relationship. Cohabitation is not necessary to be deemed a Household Member for purposes of this action.

A continuing personal relationship is defined as “a dating or intimate relationship.”

“Co-Parent” means persons who have a child in common, regardless of whether they have been married or have lived together at any time.

III. DUTIES OF POLICE OFFICERS

- A. A police officer responding to the request for assistance shall be required to identify the predominant aggressor by evaluating offensive and defensive wounds, past contacts and known information by the police and take whatever steps are reasonably necessary to protect the victim from further domestic abuse.
- B. Upon request of the victim of domestic abuse, arrange for transportation by private means or ambulance to a medical facility. If there is any evidence of strangulation, call EMS. Even if the victim refuses, the risk of death from tissue damage showing up hours later in the form of irreversible airways obstruction is too high to not call EMS.
- C. Upon request of the victim of domestic abuse, accompanying the victim to the victim’s residence to remove the victim’s clothing and personal effects required for immediate needs and the clothing and personal effects of any children in the care of the victim.
- D. Advising the victim of the remedies available under the Family Violence Act/Order of Protection, filing of appropriate crime reports, procedure for obtaining a warrant and the availability of domestic violence shelters, medical care and counseling. A victim of domestic violence will be given a “Domestic Violence packet.” stating the victim’s rights in both English and Spanish.
- E. Officers may arrest a person without a warrant when the officer is at the scene of a domestic abuse call and has probable cause to believe that the person has committed an assault or a battery upon a household member as defined above. When an arrest is made, officers shall charge the offender under the appropriate statute for battery and/or assault as authorized by 31-1-7, NMSA 1978. These laws can be used even when no Order of Protection exists.
- F. Advise the victim, when appropriate, of the procedure for initiating proceedings under the Family Violence Protections

Act or under criminal statutes if applicable, and of the importance of preserving evidence.

- G. All responding officers will complete an initial Offense Report on every incident of domestic disturbance they are dispatched to, regardless of whether or not an injury was sustained, an assault was committed, or enforcement action was taken.
- H. If dispatched to a call for service for a domestic disturbance and through the officer's investigation on scene it is determined that it was not a domestic disturbance, then the primary officer will submit a report for "disturbance", articulating the facts and circumstances surrounding the incident.
- I. Department personnel will provide victims of domestic violence with a "Domestic Violence Packet" and will direct them in the steps necessary to obtain a Family Protection Order.
- J. Officers will assist victim(s) in obtaining an emergency order of protection under the guidelines of 40-13-3.2 NMSA 1978.
- K. Officers will enforce the provisions of valid Orders of Protection.
- L. Upon request of the petitioner, assist in placing the petitioner in possession of the dwelling or premises or otherwise assist in execution or service of the order of protection.
- M. Officers shall enforce the provisions of custody as set forth in a valid court order, which may include removing children from the non-custodial parent or guardian.

IV. POLICE OFFICERS AS VICTIMS/ABUSING PARTIES

The following procedures have been developed to ensure that department policy is applied fairly and impartially to all members of the community.

- A. When a police officer responds to a call of domestic abuse

and finds that the offender or victim is member of the Los Lunas Police Department or another law enforcement agency, the responding officer will call the Shift Supervisor, who will in turn contact the Patrol Lieutenant. If the Patrol Lieutenant is not available then the shift supervisor will contact one of the other division commanders.

- B. Should the victim/offender officer be of equal or higher rank than that of the responding supervisor, the responding supervisor will then contact someone of higher rank than that of the offender/victim.
- C. After consulting with a division commander, the decision will be made for the Sergeant to handle the investigation or for an outside agency to handle the investigation.
- D. Depending on the nature of the alleged offense and the totality of the circumstances, the officer from the Los Lunas Police Department may be placed on paid or unpaid administrative leave at the discretion of the chief or his designee.
- E. In the event that the officer from the Los Lunas Police Department has an order of protection placed against him / her, the officer may be placed on administrative leave due to federal law prohibiting a person to be in possession of a firearm while having a protection order in place against them.
- F. At the conclusion of the criminal investigation, an internal investigation will be conducted if the Los Lunas Police officer was identified as the offender.

V. ORDER OF PROTECTION

A victim of domestic abuse may petition the District Court under the Family Violence Protection Act for an Order of Protection. The Los Lunas Police Department is required to keep petition forms for distribution of domestic abuse. These forms will be available at the Police Department and officers shall familiarize themselves with these forms and their implication in order to instruct victims of domestic abuse seeking such relief. These forms are available in the office and records. The officers or police employees shall provide the public upon request a Domestic Violence packet. If actual assistance is needed in filing out the forms, the legal

advocate for the domestic violence shelter can be called to assist.

A. Court orders may include, but are not limited to the following:

1. Awarding temporary custody of the children and allowing for visitation rights and support;
2. Ordering that respondent not initiate contact with petitioner;
3. Restraining parties from disposing of personal property other than in the course of business, as directed by the Court Order;
4. Enforcing other injunctive relief as the Court deems necessary, including orders to law enforcement agencies;
5. Granting sole possession of the household to petitioner during the period the Order is effective or ordering the respondent to provide temporary suitable alternative housing for petitioner and any children to whom the respondent owes a legal obligation of support.

B. A police officer shall arrest without a warrant and taken into custody a person whom the police officer has probable cause to believe has violated any clauses as set forth in a valid Order or Protection. Prior to any arrests for violation of the Order of Protection, the officer will verify whether or not the respondent has been served with a copy of the Order. The verification can be done by verifying that the order of protection is on file. Verification can also be done by contacting the Valencia County District Court.

C. Any abusing party arrested for violation of the Order of Protection will be charged under 40-13-6(c), NMSA 1978, "Violation of Order of Protection" in Magistrate Court. A criminal complaint will be completed detailing the violations. A copy of the Order of Protection should accompany the paperwork to Magistrate Court. In addition, any additional criminal charges will be filed.

D. If the alleged abusing party is not arrested, a report shall be filed detailing the allegations. A copy of the valid Order of Protection will be attached to the report.

